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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,666	10/09/2001	Michael D. Ellis	UV-217	7521
1473 7590 04/19/2007 FISH & NEAVE IP GROUP ROPES & GRAY LLP 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER O STEEN, DAVID R	
			ART UNIT	PAPER NUMBER
			2623	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/974,666	ELLIS, MICHAEL D.	
	Examiner	Art Unit	
	David R. O'Steen	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. The objection to Claim 21 raised in the Office Action mailed on August 25, 2006 is withdrawn due to the amendment filed on January 25, 2007.

### ***Response to Arguments***

2. Applicant's arguments filed January 25, 2007 have been fully considered but they are not persuasive. In Section II of the Remarks filed by the applicant on January 25, 2007, the applicant argues that Shah-Nazaroff does not teach or suggest the limitation "displaying the on-demand media data from cache in response to a user indication to access at least the on-demand media data" found in independent Claims 1, 21, 41, and 61. The applicant also argues that Shah-Nazaroff fails to teach or suggest that the user interface is presented to the user in response to a "user indication."

The examiner disagrees. Shah Nazaroff discloses a user interface (shown in fig. 2.210) which coordinates the launching of the on-demand media system and upgrades, among other things (col. 3, lines 59-65). Shah-Nazaroff allows for a variety of ways for a user to interact with system such as key pad or mouse (col. 3, lines 50-58). It is the user interface module, fig. 2.210, which launches programming guide shown in figure 5. On-demand media data is stored in the program database (fig. 2.220, and cols. 3 and 4, lines 60-67 and 1-7). In view of the above argument, the examiner maintains the U.S.C. 102 rejections of Claims 1, 21, 41, and 61 as well as their dependent claims.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-5, 7, 18-22, 24-25, 27, 38-42, 44-45, 47, 58-62, 64-65, 67 and 78-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Shah-Nazaroff (US 6,157,377).

As regards Claims 1, 21, 41, and 61, Shah-Nazaroff discloses a method, computer readable medium, and system for retrieving data for use in an interactive television application system in which non-on-demand media data is provided by a non-on-demand media data source (such as pay-per-view listings from a cable satellite source, fig. 5) and on-demand media data is provided by an on-demand media data source (such as on-demand video listings from a satellite source or video game listings from an Internet source, fig. 5), wherein the non-on-demand and on-demand media data sources are separate, comprising: a communications device for communicating with the on-demand media data source (such as a digital satellite or internet connection) and non-on-demand media data source (such as a cable system) (fig. 2.230 and col. 4, lines 10-13); a cache memory (fig. 2.220 and cols. 3 and 4, lines 60-67 and 1-7); a display

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device (fig. 2.210 and col. 3, lines 50-54); a user input device (fig. 2.210 and col. 3, lines 54-57); and control circuitry (such as that comprising the media system, fig. 1.110) programmed to: retrieving the non-on-demand media data from the non-on-demand media data source (such as receiving listings information from the broadcast source, col. 4, lines 1-7); automatically retrieving the on-demand media data from the on-demand media data source (such as periodically retrieving program information from the video source, col. 4, lines 1-7); automatically caching the media data (such as storing the periodically updated listing data for the media available in a program database, fig. 2.20 and cols. 3 and 4, lines 59-67 and 1-7); displaying the on-demand media data from cache in response to a user indication to access at least the on-demand media data; and displaying the non-on-demand media data in response to a user indication to access at least the non-on-demand media (such as providing programming guide with non-on-demand media and on-demand media as in fig. 5, col. 6, lines 16-48, through a user interface such as fig. 2.210, col. 3, lines 50-67).

As regards Claims 2, 22, 42, and 62, Shah-Nazaroff discloses that the non-on-demand media data retrieved is television program listings data (such as pay-per-view listings, fig. 5).

As regards Claims 4, 24, 44, and 64, Shah-Nazaroff discloses that the on-demand media data retrieved is interactive television application software data (such as Mech Warrior 6000, fig. 5).

As regards Claims 5, 25, 45, and 65, Shah-Nazaroff discloses that the on-demand media data retrieved is video-on-demand listings data (such as for an on-demand movie "Titanic," fig. 5).

As regards Claims 7, 27, 47, and 67, Shah-Nazaroff discloses that the on-demand media data retrieved is interactive video games listings data (such as Mech Warrior 6000, fig. 5).

As regards Claims 18, 38, 58, and 78, Shah-Nazaroff discloses that retrieving on-demand media data from multiple on-demand media data sources (such as Satellite and the Internet, fig. 5).

As regards Claim 19, 39, 59, and 79, Shah-Nazaroff discloses caching on-demand media data from multiple on-demand media data sources (such as storing program data from a variety of on-demand media sources like Satellite and the Internet in a program database, fig. 2.220, cols. 3 and 4, lines 59-67 and 1-7).

As regards Claim 20, 40, and 60 Shah-Nazaroff discloses displaying non-on-demand media data and on-demand media data concurrently (fig. 5).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 23, 43, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Hofmann (US 5,883,677).

As regards Claims 3, 23, 43, and 63 Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose that the on-demand media data retrieved is genre data. Hofmann discloses that the on-demand media data retrieved is genre data (figs. 5 and 6 and col. 8, lines 32-41, or such as labeling a program as a comedy, figs. 9A and 9B).

At the time of the invention it would have been obvious to one skilled in the art to include the genre data, as done in Hoffman, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to give the user additional helpful information about his viewing choices.

Claims 6, 26, 46, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Mathews, III (US 5,815,145).

As regards Claims 6, 26, 46, and 66 Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose that the on-demand media data retrieved is audio-on-demand listings data. Mathews discloses that the on-demand media data retrieved is audio-on-demand listings data (col. 9, lines 40-49).

At the time of invention, it would have been obvious to one skilled in the art to add the audio-on-demand listings of Mathews, an analogous art, to the non-on-demand

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and on-demand audio-video delivery of Shah-Nazaroff to give the user more on-demand media options.

Claims 8-9, 13, 28-29, 33, 48-49, 53, 68-69, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Banker (US 5,485,221).

As regards Claims 8, 28, 48, and 68, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61, but fails to disclose that the on-demand media data retrieved is weather data. Banker discloses that the on-demand media data retrieved is weather data (col. 6, lines 37-43).

At the time of invention, it would have been obvious to one skilled in the art to add the weather data of Banker, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to give the user more information options.

As regards Claims 9, 29, 49, and 69, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose that the on-demand media data retrieved is sports statistics data. Banker discloses that the on-demand media data retrieved is sports statistics data (such as scores, col. 6, lines 37-43).

At the time of invention, it would have been obvious to one skilled in the art to add the sports statistics data of Banker, an analogous art, to the non-on-demand and



on-demand audio-video delivery of Shah-Nazaroff to give the user more information options.

As regards Claims 13, 33, 53, and 73 Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose retrieving on-demand media data from the on-demand media data source in response to a user selection of an on-demand media listing. Banker discloses retrieving on-demand media data from the on-demand media data source in response to a user selection of an on-demand media listing (such as by navigating the IPG menu options fig. 5A to reach sports information fig. 5C.550).

At the time of invention, it would have been obvious to one skilled in the art to add the additional retrieval of Banker, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to give the user a structured, easy-to-use way of accessing additional data.

Claims 10, 30, 50, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Lett (US 5,771,064).

As regards Claims 10, 30, 50, and 70, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose that the on-demand media data retrieved is stock market data. Lett discloses that the on-demand media data retrieved is stock market data (col. 6, lines 37-43).

At the time of invention, it would have been obvious to one skilled in the art to add the stock market data of Lett, an analogous art, to the non-on-demand and on-

demand audio-video delivery of Shah-Nazaroff to give the user more information options.

Claims 11-12, 31-32, 51-52, and 71-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Lewis (US 2003/0040962).

As regards Claims 11, 31, 51, and 71, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose providing metadata contemporaneously with non-on-demand media data. Lewis discloses providing metadata (such as embedded control data that allows a user to edit or remove certain sections of the media) contemporaneously (such as by transmitting data along with the broadcast data, paragraph 72, lines 1-5) with non-on-demand media data (figs. 3H and 3I, and paragraphs 95, 96, and 97).

At the time of invention, it would have been obvious to one skilled in the art to add the metadata of Lewis, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to give the user more opportunities to customize the media program being watched.

As regards Claims 12, 32, 52, and 72, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose providing metadata contemporaneously with on-demand media data. Lewis discloses providing metadata (such as embedded control data that allows a user to edit or remove certain sections of the media) contemporaneously (such as by transmitting data along

with the broadcast data, paragraph 72, lines 1-5) with on-demand media data (figs. 3H and 3I, and paragraphs 95, 96, and 97).

At the time of invention, it would have been obvious to one skilled in the art to add the metadata of Lewis, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to give the user more opportunities to customize the media program being watched.

Claims 14-15, 34-35, 54-55, and 74-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Aristides (US 5,630,119).

As regards Claims 14, 34, 54, and 74, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose determining if the on-demand media data is cached. Aristides discloses determining if the on-demand media data is cached (such as program info in an program guide, col. 6, lines 27-32).

At the time of invention, it would have been obvious to one skilled in the art to add the caching of Aristides, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to provide a smoother experience to the user.

As regards Claims 15, 35, 55, and 75, Shah-Nazaroff discloses the method and computer readable medium of Claims 1, 21, 41, and 61 but fails to disclose determining if the on-demand media data needs to be retrieved from the on-demand media data source. Aristides discloses determining if the on-demand media data needs to be

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retrieved from the on-demand media data source (such as from the program guide head-end, col. 6, lines 32-39).

At the time of invention, it would have been obvious to one skilled in the art to add the caching of Aristides, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to provide a smoother experience to the user.

Claims 16, 36, 56, and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Rosin (US 6,028,600).

As regards Claims 16, 36, 56, and 76, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose determining whether a connection exists between the interactive television application system and the on-demand media data source. Rosin discloses determining whether a connection exists between the interactive television application system and the on-demand media data source (Abstract, fig. 12, and col.15, lines 43-47).

At the time of invention, it would have been obvious to one skilled in the art to add the determination of a connection of Rosin, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to insure that a connection exists before any attempt at retrieving the on-demand media is made.

Claims 17, 37, 57, and 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff (US 6,157,377) in view of Hooper (US 5,414,455).

As regards Claims 17, 37, 57, and 77, Shah-Nazaroff discloses the method, computer readable medium, and system of Claims 1, 21, 41, and 61 but fails to disclose establishing a connection between the interactive television application system and the on-demand media data source. Hooper discloses establishing a connection between the interactive television application system and the on-demand media data source (Abstract, fig. 12, and col.15, lines 43-47).

At the time of invention, it would have been obvious to one skilled in the art to add the establishing of a connection of Hooper, an analogous art, to the non-on-demand and on-demand audio-video delivery of Shah-Nazaroff to insure that a connection exists before any attempt at retrieving the on-demand media is made.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R. O'Steen whose telephone number is 571-272-7931. The examiner can normally be reached on 8:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DRO



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